

**RULES
OF
DEPARTMENT OF HUMAN RESOURCES
MENTAL HEALTH, MENTAL RETARDATION AND
SUBSTANCE ABUSE**

**CHAPTER 290-4-10
DUI ALCOHOL OR DRUG USE
RISK REDUCTION PROGRAM**

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290-4-10-.01 Legal Authority. These rules are adopted and published in accordance with the Official Code of Georgia Annotated (O.C.G.A.) Section 40-5-80 *et seq.*
Authority O.C.G.A. Sec. 40-5-83. **History.** Original Rule entitled "Organization" adopted. F. Jul. 19, 1990; eff. Aug. 8, 1990. **Repealed:** New Rule entitled "Legal Authority" adopted F. Nov. 29, 1993; eff. Dec. 19, 1993. **Repealed:** New Rule same title adopted. F. Jul. 28, 1999; eff. Aug. 17, 1999.

290-4-10-.02 Title and Purpose. These rules are known as the Rules and Regulations for DUI Alcohol or Drug Use Risk Reduction Programs. The purpose of the rules is to provide for the certification of DUI Alcohol or Drug Use Risk Reduction Programs and instructors by the Department of Human Resources, Division of Mental Health, Mental Retardation, and Substance Abuse, and to provide for the inspection and investigation of such programs, instructors, and staff, and for enforcement of certification and program requirements by the department.

Authority O.C.G.A. Sec. 40-5-83. **History.** Original Rule entitled "Definitions" adopted. F. Jul. 19, 1990; eff. Aug. 8, 1990. Amended: F. Jun. 21, 1991; eff. Jul. 11, 1991. **Repealed:** New Rule entitled "Title and Purpose" adopted. F. Nov. 29, 1993; eff. Dec. 19, 1993. **Repealed:** New Rule same title adopted. F. Jul. 28, 1999; eff. Aug. 17, 1999.

290-4-10-.03 Definitions. Unless the context otherwise requires, the terms used in these rules mean the following:

(a) "Assessment component" means the standard screening instrument designated by the Department of Human Resources that is used to screen for the extent of an individual's alcohol and drug use and its impact on driving.

(b) "Certification" means written authorization by the Department of Human Resources to any DUI Alcohol or Drug Use Risk Reduction Program or any Program Instructor to own and operate a program or to provide instruction, respectively. Certification is a prerequisite for initial and continued program operation and instruction. It is granted and continued upon a showing of initial and continued compliance with the requirements set forth in these rules and regulations. Certification specifically authorizes programs and instructors to provide the assessment and intervention components of the DUI Alcohol or Drug Use Risk Reduction Program.

(c) "Department" means the Department of Human Resources.

(d) "Director" means the person designated in writing by the program owner(s) to manage and control the overall operation of a DUI Alcohol or Drug Use Risk Reduction Program by managing the day-to-day operations, supervising all employees and instructors, establishing policies and procedures, ensuring compliance with same, overseeing and ensuring compliance with program requirements, and ensuring compliance with all other legal requirements. Each program must have one designated director. The director may be an owner or a person designated by the owner(s).

(e) "Division" means the Division of Mental Health, Mental Retardation, and Substance Abuse of the Department.

(f) "Intervention component" means a DUI Alcohol or Drug Use Risk Reduction course that delivers therapeutic education about alcohol and drug use and driving, and peer group counseling concerning alcohol and drug use over a period of 20 hours utilizing a methodology and curriculum approved and certified by the department.

(g) "Instructor" means an individual who has been certified by the department to instruct the intervention component of the DUI Alcohol or Drug Use Risk Reduction Program.

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(h) "Management or Control" means the actual exercise of or authority to exercise direction, administration, supervision, or oversight over the operation of a DUI Alcohol or Drug Use Risk Reduction Program.

(i) "Offender" means any person who may be required to enroll in a DUI Alcohol or Drug Use Risk Reduction Program, but who has not yet become a student at a particular program.

(j) "Operations Guidelines" mean the directions, forms, formats and guidelines formulated by the department in order to implement these rules and regulations.

(k) "Owner" means any person who has a financial interest of least twenty-five (25) percent in or who derives substantial financial benefit from a DUI Alcohol or Drug Use Risk Reduction Program.

(l) "Person" means any individual, agent, representative, governing or operating authority, board, organization, partnership, agency, association, corporation, or other entity, whether public or private.

(m) "Program" means any DUI Alcohol or Drug Use Risk Reduction Program that is certified to deliver the Assessment and Intervention components.

(n) "Program location" means any location where a DUI Alcohol or Drug Use Risk Reduction Program student or potential student receives services from the Program.

(o) "Program requirements" mean any provision of state or federal law, rule, regulation, operations guidelines of the department, or administrative or judicial order that applies to programs or instructors. Program requirements specifically include compliance with anti-discrimination laws and rules and regulations.

(p) "Revocation" means the termination by the department of certification of a program, director, or instructor based upon failure to comply with program requirements.

(q) "Satellite program" means a program that is under the same ownership as another program, and that is exempted from certain

location and facilities requirements pursuant to rule .18(12) any (13).

(r) "Session" means a segment of the intervention course. The course is divided into six sessions; sessions one through four are three and one half hours long and sessions five and six are three hours long.

(s) "Student" means any person who has signed an assessment contract, taken an assessment, enrolled in or taken the intervention component at a program.

(t) "Suspension" means the temporary withdrawal by the department of the certification of a program or instructor based upon failure to comply with the program requirements. Suspension may be for a period of time specified by the department or until specified conditions are met.

Authority O.C.G.A. Sec. 40-5-83. History. Original Rule entitled "Exclusions and Exemptions" adopted. F. Jul. 19 1990; eff. Aug. 8, 1990. **Repealed:** New Rule entitled "Definitions" adopted. F. Nov. 29, 1993; eff. Dec. 19, 1993. **Repealed:** New Rule same title adopted. F. July 28, 1999; eff. Aug. 17, 1999.

290-4-10-.04 Exclusions. The following persons may not own, direct, instruct, or serve as a program employee or agent:

(a) any employee of the department, the Georgia Department of Public Safety (DPS), or any spouse of such employee except those continuously operating or instructing as of July 1, 1990.

(b) any judge, public or private probation officer or employee, law enforcement or peace officer, employee of a court in this state, or any spouse thereof, except for owners and instructors who were certified as of July 1, 1990, and have been continuously certified since July 1, 1990.

(c) any person for whom owning, directing, instructing or serving as a program employee or agent would pose an actual, potential, or apparent conflict of interest due to the existence of a fiduciary relationship with any student or offender or due to the existence of any other relationship that would place the owner, director, instructor, employee or agent in a position to exert undue influence, exploit, take undue advantage of or breach the confidentiality of any student or offender.

Authority O.C.G.A. Sec. 40-5-83. History. Original Rule entitled "Qualification of Program Owners" adopted F. Jul. 19, 1990; eff. Aug. 8, 1990. **Repealed:** New Rule entitled "Exclusions" adopted. F. Nov. 29, 1993; eff. Dec. 19, 1993. **Repealed:** New Rule same title adopted. F. July 28, 1999; eff. Aug. 17, 1999.

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290-4-10-.05 Qualifications of Program Owners and Directors.

(1) **Qualifications required.** To be certified to operate a program and throughout the certification period, owners and directors must have the qualifications set forth below. These qualifications must be demonstrated at the time of application for program certification and at any other time reasonably requested by the department.

(2) **Initial qualifications.** Upon application for certification to operate a program, the applicant must have the follow qualifications:

(a) **Clear criminal record.** No owner or director may have been convicted of or pled guilty or *nolo contendere* to any crime which constitutes a felony in this or any other state unless a pardon has been obtained. Nor may he or she have been convicted of or pled guilty or *nolo contendere* to any misdemeanor involving fraud, dishonesty or deceit within a period of ten years preceding the date of the application. Nor may he or she have been convicted of or plead guilty or *nolo contendere* to any other misdemeanor, including driving under the influence, within a period of five years from the date of application for certification.

(b) **Safe driving record.** Each owner and director must have, a valid driver's license from the state of his or her legal residence, unless an owner or director has a medical condition that makes him her ineligible for a driver's license. Each owner and director must have a safe driving record, which must be demonstrated by a Motor Vehicle Record (MVR) for the past three years. The MVR must show no more than six offenses, which result in the assessment of points pursuant to O.C.G.A. 40-5-57 in a three-year period. In addition, it must show the absence of any points suspension or other mandatory suspension within the previous three years.

(c) **Business Plan.** The applicant must demonstrate, through a business plan on a format supplied by the department, the reasonable likelihood that the owner(s) have the ability to furnish continuous service in compliance with program requirements for a period at least two years from the date operation commences.

(d) **Surety Bond.** In order to protect the contractual rights of the students, each applicant must obtain and maintain a continuous surety bond in the amount of Seven Thousand Five Hundred Dollars (\$7,500).

(e) **Academic and work experience qualifications.** Each director must be qualified by having the following academic and work experience requirements:

1. an undergraduate or graduate degree in education, the social sciences, counseling, law, business or related field; or

2. a high school diploma or GED equivalent, and at least two years of full-time (20 hours per week or more) relevant paid work experience. The relevance of work experience will be determined by the department and may include, but not be limited to, teaching of adolescents or adults, alcohol and drug prevention and intervention education, substance abuse counseling, or operation or management of a service-oriented business.

(f) **Completion of Risk Reduction Program.** Each owner and director must successfully complete the 20-hour intervention component of the Risk Reduction Program as evidenced by a certificate of completion.

(g) **Completion of director training course.** Each director must successfully complete a department-designed training course. The department may set a fee to cover the cost of the course.

(h) **Freedom from substance abuse and illicit drug use.** Each owner and director must refrain from abusing alcoholic beverages or controlled substances and from using illicit drugs.

(i) **History of compliance.** When anyone who has ever been or is currently certified to own, direct or instruct in a program applies to own or direct a new program, the department will consider that person's history of compliance in determining the applicant's eligibility for certification.

1. Anyone whose certification has ever been revoked for issuing false or fraudulent certificates or falsifying program records will not be certified to open a new program.

2. Anyone whose certification has been revoked for any other reason within the five-year-period prior to application will not be certified to open a new program.

3. The department may deny an application to open a new program if the applicant has a poor history of compliance with program requirements as evidenced by previous suspension(s), administrative fine(s), or notices of noncompliance.

4. The department may deny an application to open a new program if the applicant is currently certified as an owner, director or instructor who is currently not in compliance with program requirements.

(j) **Confidentiality statement.** Each owner and director must sign a department provided confidentiality statement agreeing to hold the identity of students and program records confidential.

(k) **Age.** Each owner or director must be at least twenty-one years of age.

(3) **Ongoing qualifications.** Each owner and director must possess the following qualifications, as applicable, on an ongoing basis:

(a) **Continued clear criminal record.** Each owner and director must maintain a criminal record free of felony or misdemeanor convictions or pleas. In addition, each owner and director must notify the department if he or she has pled guilty or *nolo contendere* to or has been convicted of any felony or misdemeanor within five business days of such event.

(b) **Continued safe driving record.** Each owner and director must continue to maintain a safe driving record and must provide to the department a certified copy of his or her Motor Vehicle Report every two years. The MVR must show no more than four offenses which result in the assessment of points pursuant to O.C.G.A. 40-557, and the absence of any points or mandatory suspension in the two-year period. In addition, each owner and director must notify the department if he or she has pled guilty or *nolo contendere* to, or has been convicted of being at fault in a motor vehicle accident involving death or serious injury, within five business days of such event.

(c) **Continuing education.** Each director must successfully complete 20 hours of continuing education courses relevant to the program administration every two years. A minimum of 6 hours of the required 20 hours must be in department-designated courses concerning program administration or program components.

Authority O.C.G.A. Secs. 40-5-82, 40-5-83. **History.** Original Rule entitled "Program Application, Certification and Recertification Requirements" adopted. F. Jul. 19, 1990; eff. Aug. 8, 1990. **Amended:** F. Jun. 21, 1991; eff. Jul. 11, 1991. **Repealed:** New Rule entitled "Qualifications of Program Owners and Directors" adopted. F. Nov. 29, 1993; eff. Dec. 19, 1993. **Repealed:** New Rule same title adopted F. Jul. 28, 1999; eff. Aug. 17, 1999.

290-4-10-.06 Qualifications of Program Instructors.

(1) **Qualifications required.** To be certified to instruct in a program and throughout the certification period, each instructor applicant and instructor must have the qualifications set forth below.

(2) **Initial qualifications.** Upon application for instructor certification each applicant must possess the following qualifications:

(a) **Clear criminal record.** No applicant for instructor certification will be certified who has been convicted of or pled guilty or *nolo contendere* to any crime that constitutes a felony in this or any other state unless a pardon has been obtained. Nor may he or she have been convicted of or pled guilty or *nolo contendere* to any misdemeanor involving fraud, dishonesty or deceit within a period of ten years from the date of the application. Nor may he or she have been convicted of or pled guilty or *nolo contendere* to any other misdemeanor, including driving under the influence, within a period of five years from the date of application.

(b) **Safe driving record.** Each applicant for instructor certification must have a valid driver's license from the state of his or her legal residence and must possess a safe driving record that must be demonstrated by a Motor Vehicle Record (MVR) for the past three years. The MVR must show no more than six offenses that result in the assessment of points pursuant to O.C.G.A. 40-5-57 in a three-year period. In addition, it must show the absence of any points or mandatory suspension within the previous three years.

(c) **Academic and work experience qualifications.** Each applicant for instructor certification must have at least a high school diploma or GED equivalence and at least two years of relevant work experience. The relevance of work experience shall be determined by the department and must have been obtained within the ten-year

period immediately prior to application. Relevant work experience must include the following:

1. at least two years of full-time work experience (20 hours per week or more) in classroom teaching of adolescents, along with a teaching degree in an academic subject, from an accredited college or university qualifying that individual to teach at the junior high, middle school or high school level; or
2. at least two years of full-time work experience in classroom teaching of an academic subject for college credit to adults at the junior college, college or university level; or
3. at least two years of full-time work experience with adolescents or adults as an alcohol and drug prevention or intervention professional; or
4. at least two years of full-time work experience as a licensed substance abuse counselor with at least 6 months of experience in group counseling or group facilitation. If not licensed, the counselor must hold a certification in substance abuse that is recognized by the department.

(d) Completion of instructor training. Each applicant must successfully complete the department-designated instructor training. The department will set a fee to cover the cost of the course. Requirements for successful completion include:

1. passing a written examination with a score of at least 75 out of 100;
2. making a satisfactory oral presentation during the training course to demonstrate ability to teach the course; and
3. successfully completing practice teaching within six months of taking the instructor training course.

(e) Age. Each applicant for instructor certification must be at least twenty-one years of age.

(f) Freedom from substance abuse and illicit drug use. Each applicant must refrain from abusing alcoholic beverages or controlled substances and from using illicit drugs.

(3) **Ongoing qualifications.** Each instructor must possess the following qualifications on an ongoing basis:

(a) **Continued clear criminal record.** Each instructor must maintain a criminal record free of felony or misdemeanor convictions or pleas. In addition, each instructor must notify the department of any plea of guilty or *nolo contendere*, or conviction of any felony or misdemeanor within five business days of such event.

(b) **Continued safe driving record.** Each instructor must continue to maintain a safe driving record and must provide to the department a verified copy of his or her Motor Vehicle Report every two years. The MVR must show no more than four offenses that result in the assessment of points pursuant to O.C.G.A. 40-5-57 and the absence of any points or mandatory suspension in the two-year period. In addition, each instructor must notify the department if he or she pleads guilty or *nolo contendere*, or is convicted of being at fault in a motor vehicle accident involving death or serious injury within five business days of such event.

(c) **Continuing education.** Each instructor must complete a minimum of 20 hours of continuing education in alcohol and drug training or group facilitation training sponsored or approved by the department every two years. A minimum of 10 hours of the required 20 hours must be in department-designated refresher courses specific to program components.

Authority O.C.G.A. Sees. 40-5-82, 40-5-83. **History.** Original Rule entitled "Name of Program" adopted. F. Jul. 19, 1990; eff. Aug. 8, 1990. **Repealed:** New Rule entitled "Qualifications of Program Instructors" adopted. F. Nov. 29, 1993; eff. Dec. 19, 1993. **Repealed:** New Rule same title adopted. F. Jul. 28, 1999; eff. Aug. 17, 1999.

290-4-10-.07 Program Application and Certification Requirements.

(1) **Certification required.** No program may operate without first being certified by the department as set forth herein.

(2) **Application for certification.** All applications must be submitted upon forms prepared by the department, following a procedure outlined by the department. The application must include all information, fees, and documents designated by the department and must be truthful, accurate, and complete.

(3) **Initial certification.** After receipt of a completed application evidencing that all owners and the designated director have the

qualifications set forth in rule 290-4-10-.05 and that other program requirements are met, the department shall conduct an on-site inspection of the program location to determine the program's compliance with location and facilities requirements. If the program demonstrates compliance with program requirements, the department shall certify the program. However, failure of a certified program to begin holding classes within six months of certification and to continuously operate in compliance with these rules and regulations (with no more than a three month break in instruction) will result in revocation of certification.

(4) **Ongoing certification.** Once initially certified, a program will remain certified as long as the program remains in compliance with program requirements. The department may require that certain documents and information be submitted by the program on a periodic basis in order to verify continuing compliance with program requirements. Such documents shall include, but not be limited to, Motor Vehicle Reports, fingerprint cards, and verification of the director's continuing education.

(5) **Additional information of verification.** The department may require any program applicant or certified program to submit additional information or verification that is reasonably related to making a determination regarding initial certification or continued compliance with program requirements.

(6) **Non-transferability of certification.** Certification of a program is not transferable. Application for new (initial) certification must be submitted at least 60 days prior to any change in program ownership. All new owners must meet the requirements set forth in rule 290-4-10-.05. The program must return the old program certificate to the department prior to receiving a new certificate.

(7) **Change in director.** Each program must notify the department in writing at least 20 days prior to a change in the program's director. However, in the event that the change was unanticipated, notification must occur within two business days of the change. Within 30 days of the designation of a new director, the program must provide the department with verification that the new director meets the qualifications requirements set forth in rule 290-4-10-.05. Any newly designated director must enroll in and successfully complete the next available director training course before being permanently designated.

(8) **Management and control by owners and directors.** Only certified owners and directors are authorized to exercise management and control over program operations. No one may serve as director of more than five programs.

(9) **Validity of certification.** All certifications issued pursuant to the laws and regulations are valid only so long as the certificate holder is actively engaged in the operation of a program. In the event the certificate holder ceases to be actively engaged in the operation of a program, the certificate holder must immediately notify the department and return his certificate to the department.

Authority O.C.G.A. Sec. 40-5-83. **History.** Original Rule entitled "Location of Program" adopted. F. Jul. 19, 1990; eff. Aug. 8, 1990. **Repealed:** New Rule entitled "Program Application, Certification and Closure Requirements" adopted. F. Nov. 29, 1993; eff. Dec. 19, 1993. **Repealed:** New Rule entitled "Program Application and Certification Requirements" adopted. F. Jul. 28, 1999; eff. Aug. 17, 1999.

290-4-10-.08 Temporary Suspension and Program Closure.

(1) **Temporary suspension of operations.** If a program is unable to operate in accordance with program requirements due to loss of facility or other unexpected events, a request to temporarily suspend operations may be submitted to the department. If the request is approved, the program may temporarily suspend operations for a maximum of 90 days. The following procedure must be followed to temporarily suspend operations:

(a) The program must provide to the department all assessment disks, the program certificate, all blank certificates of completion, pending assessment file and program card file.

(b) The program must place a recording on the program answering machine or voice mail indicating that the program is temporarily closed, the expected date of reopening and the telephone number to the department for the issuance of replacement certificates and transfer of assessments.

(c) Programs are responsible for all costs associated with shipping materials to and from the department during a period of temporary suspension.

(2) **Program closure.** Each program must notify the department in writing of the owner's intent to close the program. This notification must include the closing date, the reason for closure, and must be given at least two weeks in advance of the closure date. In addi-

tion, any program that closes for whatever reason, including revocation of certification, must provide the following materials to the department within 3 business days of closure:

- (a) the official program certificate;
- (b) all unused certificates of completion and replacement certificates of completion;
- (c) the records, including assessment results, of students who were assessed at the closed program within the last year, but who did not complete the intervention component at that program;
- (d) a sample copy of the letter the above students received notifying them of the closure of the program;
- (e) the program card files or a printout of the computer card files for the past five calendar years; and
- (f) any other program records designated by the department.

Authority O.C.G.A. Sec. 40-5-83. **History.** Original Rule entitled "Office Requirements" adopted. F. Jul. 19, 1990; eff Aug. 8, 1990. **Repealed:** New Rule entitled "Instructor Application, Certification, and Recertification Requirements" adopted. F. Nov. 29, 1993; eff. Dec. 19, 1993. **Repealed:** New Rule entitled "Temporary Suspension and Program Closure" adopted. F. Jul. 28, 1999; eff Aug. 17, 1999.

290-4-10-.09 Instructor Application, Certification, and Recertification Requirements.

(1) **Certification required.** No person may instruct in a program without first having obtained certification from the department as set forth herein.

(2) **Application for certification.** All applications must be submitted on forms prepared by the department, following a procedure outlined by the department. The application must include all information, fees and documents designated by the department and must be truthful, accurate and complete.

(3) **Initial certification.** Upon receipt of a fully completed application evidencing that the applicant meets the qualifications set forth in rule 290-4-10-.06, and upon verification that the applicant has successfully completed the instructor training course, the department shall certify the applicant as an instructor. Initial certification shall last for a period of up to twenty-four months. However,

the certification of any instructor who fails to begin instructing within six months of certification may be revoked.

(4) **Recertification.** At least 60 days prior to the expiration of the initial certification period and any subsequent certification period, the instructor must submit to the department a recertification application, along with any documents or verification designated by the department. In order to be recertified, an instructor must have instructed at least six classes in the initial two-year certification period and at least four classes in every two-year recertification period hereafter. An instructor whose certification has lapsed for failure to timely apply for recertification will not be permitted to instruct until a completed recertification application has been submitted to the department and the department has given written approval to resume instructing. If certification has lapsed for a period of more than a year, a new application is required and the initial certification process must be followed.

(5) **Additional information or verification.** The department may require any applicant for instructor certification or recertification to submit additional information or verification that is reasonably related to making a certification or recertification determination.

(6) **Validity of certification.** All certifications issued pursuant to the laws and regulations are valid only so long as the certificate holder is actively engaged as an Instructor as required by paragraph (4) of this rule. In the event the certificate holder ceases to be actively engaged as an instructor, as required by paragraph (4), the certificate holder must immediately notify the department and return his or her certificate to the department.

Authority O.C.G.A. Sec. 40-5-83. **History.** Original Rule entitled "Display of Certificate" adopted. F. Jul. 19, 1990; eff. Aug. 8, 1990. **Repealed:** New Rule entitled "General Program Responsibilities" adopted. F. Nov. 29, 1993; eff. Dec. 19, 1993. **Repealed:** New Rule entitled "Instructor Application, Certification, and Recertification Requirements" adopted. F. Jul. 28, 1999; eff. Aug. 17, 1999.

290-4-10-.10 Program Employees. Any program employee, agent or volunteer who provides any program service to offenders or students, has access to program records, or who has telephone or face-to-face contact with offenders or students must meet the following requirements:

- (a) be at least 18 years of age;

(b) sign a confidentiality statement provided by the department agreeing to hold the identity of students and offenders and student records confidential;

(c) sign a statement cosigned by the director that the employee has received orientation on these rules and operations guidelines relevant to that employee's job duties; and

(d) never have been a certified owner, director or instructor whose certification was revoked for having issued a false or fraudulent certificate or for falsifying program records.

Authority O.C.G._A. Sec. 40-5-83. **History.** Original Rule entitled "Changes In Officers or Address" adopted. F. Jul. 19, 1990; eff Aug. 8, 1990. **Repealed:** New Rule entitled "General Instructor Responsibilities" adopted. F. Nov. 29, 1993; eff. Dec 19, 1993. **Repealed:** New Rule entitled "Program Employees" adopted. F. Jul. 28, 1999; eff Aug. 17, 1999.

290-4-10-11 General Program Responsibilities. In addition to meeting all other program requirements, every program owner and director is responsible for the following:

(a) providing services for the assessment and intervention components of the risk reduction program;

(b) holding at least one class every other calendar month;

(c) the actions of all employees, agents and instructors carried out within the scope of employment, whether they are characterized as employees, agents or independent contractors;

(d) maintaining for every employee and instructor a personnel folder containing the job application, signed statements required by these rules and, if applicable, a copy of each instructor's current certification;

(e) designating a director who meets the qualifications requirements of rule 290-4-10-.05;

(f) ensuring that all students receive the Student Information Sheet and the required study guide;

(g) ensuring that all multiple offenders have access to the most recent registry of clinical evaluators and receive copies of any pages requested;

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(h) training all program employees who have contact with students or offenders to provide accurate information regarding the program and to maintain student confidentiality;

(i) participating in program evaluations and research projects as directed by the department;

(j) prohibiting the solicitation of students or offenders for insurance, legal services, bail bonds, specific clinical evaluations or treatment providers, or any other product or service; and

(k) ensuring the quality of instruction and execution of the program in a professional manner conducive to learning.

Authority O.C.G.A. Secs. 40-5-82, 40-5-83. **History.** Original Rule entitled "Nontransferability" adopted. F. Jul. 19, 1990; eff. Aug. 8, 1990. **Repealed:** New Rule entitled "Assessment Component" adopted. F. Nov. 29, 1993; eff. Dec. 19, 1993.. **Repealed:** New Rule entitled "General Program Responsibilities" adopted. F Jul. 28, 1999; eff. Aug. 17, 1999.

290-4-10-.12 General Instructor Responsibilities. In addition to meeting all other program requirements, every certified instructor must:

(a) facilitate all sessions of the intervention component except in cases of emergency;

(b) instruct for no more than seven hours a day;

(c) arrive at least 30 minutes prior to the beginning of class;

(d) remain with the class during all sessions;

(e) perform no other duties or functions during class time, including answering the telephone, completing paperwork or administering assessments;

(f) ensure that classes meet the class size requirements set forth in rule 290-4-10-.14;

(g) conduct class free from the influence of alcohol or any illegal substance;

(h) require all students to attend the class for the mandatory class hours;

- (i) schedule breaks as outlined in the intervention component syllabus;
- (j) provide a minimum one hour meal break between each class session; this meal break is in addition to the required hours of class instruction;
- (k) require students to sign a class roll at the beginning of each session of the intervention component;
- (l) allow no student to attend class while intoxicated or under the influence of any illegal substance;
- (m) require each student to arrive for each class session on time;
- (n) read the requirements for successful completion of the program at the first session of the intervention component;
- (o) provide each student with the required study guide at the first session of the intervention component;
- (p) personally administer and grade the post-tests before the certificate of completion is issued;
- (q) ensure that a certificate of completion is immediately issued to each student who successfully completes all program requirements;
- (r) utilize an up-to-date instructor's manual and compact disc interactive audiovisuals during all class sessions.
- (s) cover all material contained in the curriculum in sequence as outlined by the course syllabus with no outside material;
- (t) provide to each student, along with the assessment summary sheet, written information containing the names, telephone numbers, and addresses of local referral to alcohol/drug treatment resources and self help support groups;
- (u) participate in program evaluation and research as directed by the department;
- (v) ensure that no student is subject to solicitation for any product or service during the intervention component; and

(w) deliver the curriculum in a professional manner that is conducive to learning.

Authority O.C.G.A. Sec. 40-5-83. **History.** Original Rule entitled "Records and Contracts" adopted F. Jul. 19 1990; eff. Aug. 8, 1990. **Repealed:** New Rule entitled "Education/Intervention Intensive Intervention Component" adopted. F Nov 29, 1993; eff. Dec. 19, 1993. **Repealed:** New Rule entitled "General Instructor Responsibilities" adopted. F. Jul. 28, 1999; eff Aug. 17, 1999.

290-4-10-.13 Assessment Component. Only persons trained by the department or its designee may administer assessments. Only the assessment instrument designated by the department may be used. Assessments must be conducted in accordance with the following criteria:

(a) all persons attending the program must be assessed and their assessments processed at least 30 minutes before the beginning of the first class session;

(b) assessments may not be transferred between programs except in the following situations:

1. a class for which a student has a signed contract has been cancelled;
2. the student has moved to another geographic location within the state; or
3. there is an emergency and prior approval by the department has been obtained.

(c) assessments must be administered in accordance with the assessment directions and materials provided;

(d) each program must retain proof of its authorized use of assessment instruments and must use the assessment instrument only for the purpose of assessing students attending the program;

(e) assessments must be administered at the approved program location in a space and manner that affords privacy of the individual being assessed and that facilitates concentration and freedom from distractions;

(f) the assessment component may be administered either in groups or individually; however, individual results of the assess-

ment are to be confidential and must only be discussed in private with the individual assessed;

(g) students must be informed that the assessment is valid for a one-year period, that failure to enroll in the intervention component within that period of time will result in the need for another assessment with payment thereof, and that any subsequent convictions within the one-year period or thereafter will require a separate assessment;

(h) assessment instruments must be coded in accordance with instructions provided by the department;

(i) each program must maintain a monthly roster of all offenders assessed, using the automated assessment roster of the approved assessment instrument;

(j) rebates must be paid to the state on all persons assessed, even if they did not return for class;

(k) completed original assessment rosters and copies of rebate checks for each calendar month must be sent to the department in time for them to be received by the tenth calendar day of the month following the report month;

(l) each program must maintain copies of the monthly assessment rosters and copies of rebate checks mailed to the department; and

(m) illiterate and/or disabled students and offenders must be meaningfully accommodated in the administration of the assessment;

(n) an assessment contract must be executed as required by rule 290-4-10-.19 for each student before the assessment is given.

Authority O.C.G.A. Secs. 40-5-82, 40-5-82(c), 40-5-83. **History.** Original Rule entitled "Confidentiality of Records" adopted. F. Jul. 19, 1990; eff. Aug. 8, 1990. **Repealed:** New Rule entitled "Program Curriculum" adopted. F. Nov. 29, 1993; eff. Dec. 19, 1993. **Repealed:** New Rule entitled "Assessment Component" adopted. F. Jul. 28, 1999; eff. Aug. 17, 1999.

290-4-10-.14 Intervention Component. Only the department designated intervention course must be used. This course may only be taught by instructors and must be conducted in accordance with the following requirements:

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(a) programs must schedule courses so that all sessions are completed within four weeks, no more than two sessions are scheduled each day, and a one-hour meal break is scheduled between each session when more than one session is held on a day;

(b) course delivery, content and sequence of instruction must be in accordance with the department designated instructor's manual;

(c) classes must have a minimum of five students and can have no more than the maximum allowed by the classroom's square footage, up to a maximum of 30 students;

(d) no students from one class may be combined with students from another class to complete sessions of a course; however, a student with an excused absence may attend a class other than the one he/she started for the purpose of completing the missed class(es);

(e) all students must be required to attend class for the entire 20 hours and no student may be admitted late or dismissed early from any session;

(f) classes must be held in accordance with the class schedule on file with the department;

(g) programs must schedule classes so as to minimize the possibility that any class will have to be cancelled due to lack of enrollment. Cancellation of two consecutive classes due to lack of enrollment may be grounds for suspension, revocation or the imposition of an administrative fine. Any class that has not been rescheduled at least five days prior to the class beginning date will be considered a cancelled class;

(h) each student attending the intervention component must receive the required student study guide which is the property of the student;

(i) a class roll following a format designated by the department must be signed by each student at the beginning of each session;

(j) illiterate and/or disabled students and offenders must be meaningfully accommodated.

Authority O.C.G.A. Secs. 40-5-82, 40-5-83. **History.** Original Rule entitled "Contents of Contracts" adopted. F. Jul. 19, 1990; eff. Aug. 8, 1990. **Repealed:** New Rule entitled "Program Records" adopted. F. Nov. 29, 1993; eff. Dec. 19, 1993. **Repealed:** New Rule entitled "Intervention Component" adopted. F.. Jul. 28, 1999; eff. Aug. 17, 1999.

290-4-10-.15 Program Curriculum. Programs must use the department designated curriculum that must be delivered in accordance with the intervention component syllabus following the training and instructions provided by the department or its designee. In addition, each program must comply with the following requirements:

(a) all curriculum material must be covered in sequence following the curriculum syllabus with no deletions or additions of outside materials;

1. only audio visual materials specifically approved by the department may be used during the course;

2. no portion of the material contained in the curriculum may be photocopied nor used for any purpose other than presenting the DUI Alcohol or Drug Risk Reduction Program;

3. each student must receive all required course material;

(b) each student must receive, along with the assessment summary sheet, written information containing the names, telephone numbers, and addresses of local referral to alcohol/drug treatment resources, and self help support groups.

Authority O.C.G.A. Secs. 40-5-82, 40-5-83. **History.** Original Rule entitled "Program Advertising" adopted- F. Jul. 19, 1990; eff. Aug. 8, 1990. **Repealed:** New Rule entitled "Program Name" adopted. F. Nov. 29, 1993; eff. Dec. 19, 1993. **Repealed:** New Rule entitled "Program Curriculum" adopted. F. Jul. 28, 1999; eff. Aug. 17, 1999.

290-4-10-.16 Program Records.

(1) **Confidentiality.** Program records must be maintained in accordance with the confidentiality provisions of rule 290-4-10-.20.

(2) **Required records.** Each program must maintain the following records for five calendar years and they must be available and accessible for inspection and copying by the department upon request;

(a) assessment roster file containing copies of the monthly assessment roster and rebate checks, which must be filed chronologically by month and calendar year;

(b) class files labeled with the class dates and maintained in chronological order by dates of the class. Class files must contain

the original class roll and program copy of class roster and in addition must contain the following records for each student enrolled in any program component;

1. the Student Information Sheet, the original assessment contract, the assessment answer sheet, the assessment results, and the program's copy of the assessment summary sheet, all with required signatures;

2. original signed intervention component contract;

3. graded student post test;

4. the program (pink) copy of the student's certificate of completion; and

5. copy of replacement certificate of completion, if applicable.

(c) a card file or backed up computer file must be maintained in alphabetical order by student name and must contain the following information;

1. student name, address, and phone numbers;

2. student driver's license number and social security number;

3. student's date of birth;

4. date of assessment;

5. class dates and date of class completion;

6. instructor;

7. certificate of completion number;

8. date of issuance of any replacement certificates of completion.

(d) records of persons assessed who have not enrolled in a class must be placed in the assessment roster file with the appropriate month's assessment roster;

(e) the department may require all programs to maintain all required records on a department designated computer program.

(3) **Personnel files.** Programs must maintain a personnel file for every employee and instructor whether they are characterized as employees or independent contractors as required by rule 290-4-10.11(d).

(4) **Submittal of program records to the department.** Each program must send to the department the following records which are required and these records must be complete and accurate:

(a) class rosters must be forwarded to the department within 15 days of class completion;

(b) the original assessment roster and a copy of the rebate payment must be forwarded to the department by the 10th day of each calendar month for assessments in the previous month;

(c) should no assessments be given during a month, an assessment roster marked "no assessments" must be submitted to the department by the 10th day of the month following the report month;

(d) the rebate payment must be sent to the department's Office of Financial Services by the 10th day of each calendar month for assessments in the previous month;

(e) a quarterly class schedule on a form designated by the department. This schedule must be received two weeks prior to the quarter to which the schedule pertains. If classes are rescheduled or instructors reassigned, an amended schedule must be submitted to the department five business days prior to the beginning date of the class.

(5) **Transfer of assessment results to clinical evaluators.** Programs must transfer by fax or mail a copy of the assessment results of any multiple offender to the clinical evaluator designated by the offender, within five business days of the receipt by the program of a written release. The assessment may not be transferred to more than two clinical evaluators without the prior approval of the department. Programs may charge a transfer fee up to \$10.00 for each transfer.

Authority O.C.G.A. Sec. 40-5-83. **History.** Original Rule entitled "Responsibility of Employees" adopted. F. Jul. 19, 1990; eff. Aug. 8, 1990. **Repealed:** New Rule entitled "Program Location and Facilities" adopted. F. Nov. 29, 1993; eff. Dec. 19, 1993. **Repealed:** New Rule entitled "Program Records" adopted. F. Jul. 28, 1999; eff. Aug. 17, 1999.

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290-4-10-.17 Program Name. No program may use any name like or deceptively similar to a name used by any other program in this state. No program may use the word "state" in any part of its name or suggest that it is owned, operated, or endorsed by the state. A program may not use as its adopted business name "A DUI Alcohol or Drug Use Risk Reduction Program" or "Risk Reduction Program" or any other generic reference to the program without additional modifiers in the name.

Authority O.C.G.A. Sec. 40-5-83. **History.** Original Rule entitled "Qualifications of Instructors" adopted. F. Jul. 19, 1990; eff. Aug. 8, 1990. **Repealed:** New Rule entitled "Student Contracts" adopted. F. Nov. 29, 1993; eff. Dec. 19, 1993. **Repealed:** New Rule entitled "Program Name" adopted. F. Jul. 28, 1999; eff. Aug. 17, 1999.

290-4-10-.18 Program Location and Facilities.

(1) **Certification required.** Programs may only operate in locations that have been certified by the department. Any departmental enforcement action affecting the certification of one program may apply to all programs under the same ownership.

(2) **Location of programs.** Each program must be located in an area zoned for commercial use or in a zoning district for which schools or educational enterprises are permitted uses.

(a) No program may be located in the same facility, share the same entrance or be immediately adjacent to a facility where alcoholic beverages are sold or distributed.

(b) No program may be located on the same premises in which activities unrelated to program activities are being conducted if the department determines that such unrelated activities may interfere with the provision of any program component in a professional, effective manner.

(c) No program office or classroom can be located within a retail business establishment or a private residence.

(d) Program offices and classrooms must be located on the same premises.

(e) Programs in existence at the time of the adoption of these rules must meet the requirements of paragraph (d) above by January 1, 2000.

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(3) **Change of location.** The director must notify the department in writing at least 30 days in advance of any anticipated change in the location of any program. No program shall operate in any new location until written approval from the department has been obtained.

(a) If a program desires to move its operating facility to a site in a county other than the county in which it is presently certified to operate, a new program application must be filed following a format designated by the department.

(b) For changes of location within the same county, documentation of compliance with all local and county fire, zoning, building, and any other requirements of the municipality or county in which the program(s) will operate must be provided prior to written approval by the department.

(c) At least 10 days prior to a change in location approved by the department, all students who have been assessed within one year prior to the move who have not started or completed the program must be notified, in writing, of the move.

(d) If a program moves 10 or more miles from its original location, students assessed within one year prior to the move who have not started or completed the program must be allowed to transfer to another program of the student's choice. Students must be allowed to transfer without any additional cost to them and they must be notified, in writing, of this right. The program must provide the department within 10 business days following the move a listing of students who are eligible to transfer.

(e) Upon notification to the department requesting a change of location, the program must post a notice of its request to move the program. Such notice must be clearly displayed at the program. The proposed new location must be specified with complete address and mileage distance from the present location.

(f) The department will approve no more than one change in program location within any two-year period except in cases of emergency as determined by the department.

(4) **Scheduling of a program move.** A program will not be granted approval to move if the move would occur during an inter-

vention course. No move may cause any student to have sessions of an intervention course in more than one location, except in documented emergencies approved by the department.

(5) **Program facilities.** All program facilities where students or offenders receive services must be approved by the department and must include the following:

- (a) Clean working restrooms;
- (b) Water fountain or drinking water with cups;
- (c) Area for breaks separate from the classroom;
- (d) Blind, shades or curtains for windows or glass doors for student privacy;
- (e) Adequate lighting, heating and air conditioning;
- (f) Floor covering such as carpet, tile, or vinyl;
- (g) Adequate parking.

(6) **Equipment and furniture.** Programs must maintain the following equipment in working order:

- (a) Computer with correct date and time and printer;
- (b) Copier;
- (c) Television - at least 27 inches for classrooms of 400 to 450 square feet and at least 32 inches for classrooms greater than 450 square feet;
- (d) Compact disc interactive (Cdi) equipment that meets department specifications;

[e] Telephone with answering machine or voice mail;

(f) Fax Machine;

(g) Locking file cabinets;

(h) Padded chairs and tables arranged conference style in order to accommodate the maximum number of students for which the program is certified;

(i) Dry erase white writing board of at least 4 by 6 feet; and

(j) Other equipment as designated by the department.

(7) **Office space.** Each program must have sufficient office space to accommodate program administration and record-keeping. Office space must be sufficient to provide a secure location for program and student records.

(8) **Business hours.** Each program must maintain pre-established daily business hours of at least six hours per day between the hours of 8:00 AM and 8:00 PM five days per week, exclusive of class time. Programs must follow the holiday and vacation closing policy specified by the department in the operations guidelines. A staff person must be available during business hours to answer the telephone, furnish information about the program's operation, verify services provided, and to produce records and documentation requested by the department. Program offices cannot be open during class time unless there is a separate program office and entrance to accommodate program activities with no disruption of class. The full program name and business hours must be displayed and clearly visible from the outside of the premises.

(9) **Classrooms.** Classrooms must have at least 400 square feet of usable space. Programs with classrooms containing 400 to 419 square feet of usable space will be certified to provide services to a maximum of 20 students. Programs with larger classrooms will be certified to offer services to one additional student for every additional 20 square feet of usable space up to a maximum of 30 students. In addition, classrooms must meet the following requirements:

(a) Classrooms must have adequate space between students to afford privacy for writing and other activities.

(b) The shape and configuration of a classroom must ensure that all students can see the audiovisuals.

(c) If there is excessive noise in the classroom caused by the HVAC system or other factors, or if the acoustics warrant, the department may require the classroom to be equipped with a microphone.

(d) Vending machines are not permitted in the classroom.

(e) Smoking is prohibited in all classrooms.

(10) **Telephone line.** Each program must have an operational dedicated telephone line, with the exception that the telephone line can be shared with other related programs certified by or registered with the department or the Department of Public Safety. All program telephone lines must be located at the program and must be answered by a program employee during established business hours. Telephone lines for satellite programs may be shared with the primary program as outlined in these rules. If the program's telephone number changes, the program must notify the department of the new number in writing within two business days. In the event that a program closes, the telephone line must be disconnected within 30 days of closure.

(11) **Display of certification.** The programs certificate must be displayed in a conspicuous location on the premises of the program.

(12) Satellite programs. An owner of an existing program may apply to the department for an exemption to operate a satellite program. The department, in its discretion, may approve an application to operate a satellite program if it determines;

(a) there is no other program or satellite program in the county in which the satellite is to be operated;

(b) there is an unmet need for a program in that county;

(c) the applicant to operate the satellite maintains a program office within 50 miles of the proposed satellite; and

(d) the owner has a good record of compliance with program requirements.

(13) **Exemptions for satellite programs.** Whenever an exemption to operate a satellite program has been obtained, the satellite program may be exempted from one or more of the requirements pertaining to office space and telephone lines as is outlined below.

(a) A satellite program may not be required to maintain a separate office, but may elect to have program administration and record-keeping maintained at the primary program.

(b) Telephone lines for satellite programs may be shared with the primary program provided that the program provides a toll free number to serve all counties in which service is provided.

(14) **Closure of satellite programs.** Whenever a new program becomes certified in a county being served by a satellite program, the owner(s) of the satellite program will have one year to obtain program certification or close the satellite program.

Authority O.C.G.A. Secs. 16-10-8, 40-5-83. **History.** Original Rule entitled "Instructor Application Requirements" adopted. F Jul. 19, 1990; eff. Aug. 8, 1990. **Amended:** F. Jun. 21, 1991; eff. Jul. 11, 1991. **Repealed:** New Rule entitled "Certificates of Completion" adopted. F Nov. 29, 1993; eff. Dec. 19, 1993. **Repealed:** New Rule entitled "Program Location and Facilities" adopted. F. Jul. 28, 1999; eff. Aug. 17, 1999.

290-4-10-.19 Student Contracts.

(1) **Contract required.** Each program and student must enter into a contract for both program components. Original contracts must be maintained by the program for a period of five years from the date of execution.

(2) **Contract format.** All contracts must be pre-numbered, follow a format authorized by the department and must contain all information and provisions required by the department.

(3) **Contract execution.** A copy of a completed contract must be furnished to the student or offender prior to the delivery of any service and each contract must be signed by the student and owner, director or instructor for the program prior to the commencement of any program component.

Authority O.C.G.A. Secs. 40-5-82(c), 40-5-83. **History.** Original Rule entitled "Assessment Component" adopted. F Jul. 19, 1990; eff. Aug. 8, 1990. **Repealed:** New Rule entitled "Confidentiality of Records" adopted. F Nov. 29, 1993; eff. Dec. 19, 1993. **Repealed:** New Rule entitled "Student Contracts" adopted. F. Jul. 28, 1999; eff. Aug- 17, 1999.

290-4-10-.20 Certificates of Completion. Pre-numbered certificates of completion must be supplied to certified programs by the

department. These pre-numbered certificates of completion are the property of the department and programs are responsible for each certificate of completion.

(a) **Request for Certificates of Completion.** Upon written request of an owner or director, certificates of completion will be sent within two weeks to the program mailing address currently on file with the department. If a program requests that the certificates of completion be sent express mail or overnight mail, the program will be responsible for the mailing expense.

(b) **Issuance of Certificates of Completion to programs.** Certificates of completion sent to programs will be accompanied with a transmittal form that must be signed by the program owner or director and returned to the department within 10 business days. Programs that fail to return the signed transmittal form will not be issued additional certificates of completion until said form is returned to the department.

(c) **Issuance of Certificates of Completion to students.** Immediately upon successful completion of all requirements, including passing a final examination with a grade of at least 70 percent, the program must issue the student a certificate of completion signed by the instructor who taught the class. All information provided on the certificate must be complete and accurate. The program must record the certificate number on the class roster in numerical order. Any voided certificate must be recorded on and attached to the class roster and forwarded to the department. No certificate of completion may be issued to a student prior to successful completion of the intervention component.

(d) **Security of Certificates of Completion.** Each certificate must be maintained in a secure location until it is issued to the student. Each program must be able to account at all times for each certificate number issued to it. If any certificate is believed to be stolen, the program must immediately upon discovery file a police report. In addition, if any certificate is believed to be lost or stolen, the program must so notify the department orally no later than the end of the next business day following the discovery of the loss or theft. The program then must follow up in writing to the department within 48 hours of discovery of the loss or theft.

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(e) **Replacement Certificates.** The program may not provide any student with a duplicate certificate of completion. The program may issue replacements on a form supplied by the department and titled "Replacement Certificate" for certificates that were lost or destroyed. The cost may not exceed five dollars (\$5.00) to the student. The program may issue department provided replacement certificates to any student who reports a lost or stolen certificate after verifying attendance through program records. The Replacement Certificate must only be signed by the owner, director, or the instructor who taught the class.

(f) **Falsifying or altering certificates.** Pursuant to Title 16 of the Georgia Code, it is a crime to knowingly and willfully alter, falsify or fraudulently use a Certificate of Completion or a Replacement Certificate.

Authority O.C.G.A. Secs. 40-5-81, 40-5-82, 40-5-83. **History.** Original Rule entitled "Education/Intervention, Intensive Intervention Components" adopted. F. Jul. 19, 1990; eff. Aug. 8, 1990. **Repealed:** New Rule entitled "Program Advertising and Solicitation" adopted. F. Nov. 29, 1993; eff. Dec. 19, 1993. **Repealed:** New Rule entitled "Certificates of Completion" adopted. F. Jul. 28, 1999; eff. Aug. 17, 1999.

290-4-10-.21 Confidentiality of Records. All program records that identify any student or offender by name or inference must be maintained as confidential and must not be released to any person, other than the department or DPS, without the written consent of the student/offender or upon court order. Records cannot be released in response to a subpoena.

Authority O.C.G.A. Secs. 40-5-82, 40-5-83. **History.** Original Rule entitled "Certificates of Completion" adopted. F. Jul. 19, 1990; eff. Aug. 8, 1990. **Repealed:** New Rule entitled "Fees" adopted. F. Nov. 29, 1993; eff. Dec. 19, 1993. **Repealed:** New Rule entitled "Confidentiality of Records" adopted. F. Jul. 28, 1999; eff. Aug. 17, 1999.

290-4-10-.22 Program Advertising and Solicitation. Any program that advertises or solicits business must meet the following requirements:

(a) except as provided in subparagraph (b) below, a program must be currently certified by the department in order to advertise in any manner and any program advertisement must contain the program's full name and certification number;

(b) all program telephone directory listings in both white and yellow pages must be listed with the program's approved certified name;

(c) a program applicant, upon written authorization from the department, may apply for advertising to any yellow pages or other

advertising directory if there is a reasonable expectation that the program will be certified before the directory is published;

(d) no program may advertise in any manner that is false or misleading, nor may any program advertisement make any false or misleading claim, including but not limited to, statements suggesting or implying that the program is affiliated with or endorsed by the Department of Public Safety or the department, that reinstatement of a driver's license is guaranteed to students or offenders enrolling in a particular program, or that free or reduced fees will be given to any student or offender;

(e) no program may use the logo of the department or of the Department of Public Safety or the seal of the State of Georgia in any advertising or on any program stationary or correspondence; and

(f) no program owner, director, employee, or agent may directly or indirectly solicit business by personal solicitation on public property, by phone or by mail.

Authority O.C.G.A. Secs. 40-5-81, 40-5-82, 40-5-82(c), 40-5-83. **History.** Original Rule entitled "Suspension or Revocation of Program Certification" adopted. F. Jul. 19, 1990; eff. Aug. 8, 1990. **Repealed:** New Rule entitled "Rebates to the State of Georgia" adopted. F. Nov. 29, 1993; eff. Dec. 19, 1993. **Repealed:** New Rule entitled "Program Advertising and Solicitation" adopted. F. Jul. 28, 1999; eff. Aug. 17, 1999.

290-4-10-.23 Fees.

(1) Fees charged to students by programs for any program component will be in accordance with O.C.G.A. 40-5-83(e).

(2) An additional fee shall be set by the department for required student program materials. This fee must be charged by each program. It is not optional unless specifically exempted by law.

(3) No program, director, agent, or employee may offer any program component free of charge or charge a reduced or inflated fee for any program component or required student program materials.

(4) Fees for the assessment component must be paid prior to administering the assessment, and fees for the intervention component must be paid prior to the scheduled class beginning time.

Authority O.C.G.A. Secs. 40-5-82(c), 40-5-83. **History.** Original Rule entitled Suspension or Revocation of Instructor Certification" adopted. F. Jul. 19, 1990; eff. Aug. 8, 1990. **Repealed:** New Rule entitled "Inspections, Investigations, and Program Monitoring," adopted. F. Nov. 29, 1993; eff. Dec. 19, 1993. **Repealed:** New Rule entitled "Fees" adopted. F. Jul. 28, 1999; eff. Aug. 17, 1999.

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290-4-10-.24 Rebates to the State of Georgia. Each program must rebate to the state a fee for each student assessed.

(a) As a condition of certification, each program must agree in writing to tender the rebate as required by law. Each program must tender payment of rebate fees to the department monthly by the tenth calendar day of each month. Payment must be made in the form of money order, cashiers check, or check drawn on the program's business account. The check must be made payable to the Georgia Department of Human Resources. Checks must identify that payment is for the Risk Reduction Program and must show the full program name, program ID number and the FACS (Customer) number.

(b) A copy of the rebate check must be attached to the original assessment roster mailed to the department.

Authority O.C.G.A. Secs. 40-5-82(c), 40-5-83, 40-5-88, 50-13-18. **History.** Original Rule entitled "Complaints" adopted. F. Jul. 19, 1990; eff. Aug. 8, 1990. **Repealed:** New Rule entitled "Enforcement of Program Requirements" adopted. F. Nov. 29, 1993; eff. Dec. 19, 1993. **Repealed:** New Rule entitled "Rebates to the State of Georgia" adopted. F. Jul. 28, 1999; eff. Aug. 17, 1999.

290-4-10-.25 Inspections, Investigations, and Program Monitoring. The department or its designated representatives) are authorized and empowered to conduct inspections and investigations of programs to determine and monitor compliance with program requirements.

(a) **Inspections.** The department or its designated representatives) are authorized and empowered to conduct periodic inspections at any time during the established operating hours of such programs in order to assess compliance with program requirements.

(b) **Investigations.** The department or its designated representatives) are authorized and empowered to conduct public or private investigations inside or outside of this state to determine whether any program requirements have been or are being violated by any program. Such investigations may be conducted at any site, location, or place, may be initiated any time during operating or other reasonable hours, may continue during the pendency of any administrative action initiated by the department, and may involve any person who may have information related to an alleged or suspected violation by a program. Investigations may be initiated by the department, at its discretion, when it suspects actual or potential noncompliance with program requirements on the part of a program, or

when any person alleges facts which, if true, likely would constitute a violation of program requirements. If the department conducts undercover monitoring or investigations that requires a department representative to pay any program fees, the program is responsible for the reimbursement of those funds upon demand by the department.

1. **Consent to entry and access.** An application for certification or the issuance of the same by the department constitutes consent by the applicant or program and the owner of the premises for the department's representatives to enter the premises for the purpose of conducting an inspection, or program monitoring.
 2. Department representatives must be allowed immediate entrance and meaningful access to the program premises and to sources of information determined by the department to be pertinent to making a full compliance determination. This information includes, but is not necessarily limited to: all instructors and staff, all parts of the program premises, students/offenders; and all documents related to the initial or continued certification of a program or instructor.
 3. The department additionally shall have the authority to require the program to provide it with photocopies of any relevant documents or portions thereof. This authority extends to documents to which confidentiality or privilege otherwise would attach; however any claim of confidentiality or privilege will be preserved and will not be considered to have been waived as a result of the department's access.
- (c) **Cooperation with inspection.** Program instructors, staff, employees, representatives, and any agents thereof, must cooperate with any inspection or investigation by the department and must provide, without delay, any information reasonably requested by department representatives.
- (d) **Noncompliance with program requirements.** The department will notify any program found during any inspection, investigation, or otherwise not to be in compliance with program requirements. The department shall provide any such notification in writing and shall state the specific rule(s) violated and the factual basis for its finding of noncompliance. The program then must correct all violations within a reasonable period of time, as determined by the department. Authority O.C.G.A. Sec. 40-5-83

290-4-10-.26 Enforcement of Program Requirements. The department shall have the authority to deny, suspend, and revoke certification of a program or instructor for noncompliance with program requirements. Additionally, it shall have the authority to assess an administrative fine against any program for noncompliance with program requirements.

(a) Grounds for denial, suspension, revocation or assessment of an administrative fine.

The department may base the denial, suspension, revocation or assessment of an administrative fine upon any of the following applicable grounds:

1. knowingly making any verbal or written false or misleading statement of material fact or omitting to the state a material fact in connection with an application for certification or recertification or in connection with an inspection or investigation;
2. failing or refusing to provide the department representatives with meaningful access to the program premises, instructors and staff, students/offenders, or records (including refusing to allow department representatives to obtain copies of documents reasonably necessary to making a compliance determination);
3. the applicant for certification or recertification having an overall poor record of compliance, including but not limited to, denial of certification within the previous 12 months, certification revocation at any time in the past in this or any other state, or suspension within the previous two years;
4. changing ownership of a program in order to avoid or avert the denial, revocation, or suspension of certification.
5. aiding or assisting any person in attempting to obtain a driver's license or reinstatement of a driver's license by dishonest or fraudulent means;
6. Altering or falsifying any program records;

7. Failure or refusal by a program to remit to the department the required rebate fee as outlined in these rules; and

8. Failing or refusing to comply with any of these rules and regulations, program requirements or violating any law relating to the operation of a program.

(b) **Choice of revocation or suspension.** The department, in its discretion, may choose whether to impose suspension or revocation against a program or instructor. In considering which to impose, the department may consider the program/instructor's history of compliance; the seriousness of the violations; whether the program or instructor voluntarily reported problems giving rise to any violation; and whether the program or instructor exhibited good faith efforts to correct areas of noncompliance prior or subsequent to their discovery by the department.

(c) **Administrative fines.** The department has the authority to assess an administrative fine, not to exceed \$1,000.00 per violation, against any program that fails to comply with any program requirement. In determining the amount of the fine, the department may consider the seriousness of the violation, whether the same or any other program requirement has been violated previously by the same program owner, director, or instructor, and whether procedures designated to prevent the violation were in place and were followed. When the department determines that a fine will be imposed, violations will be assigned a category based on the following:

1. **CATEGORY 1 (\$500-\$1,000).** Violations involving fraud, providing false information or documents, failure to account for official state documents, such as issuing a certification of completion to a person who has not completed all course requirements or not being able to account for all blank certificates.

2. **CATEGORY 11 (\$300-\$700).** Violations involving noncompliance with program certification requirements such as failure to pay rebate fees, failure to submit required documents and failure to maintain and use required equipment and materials.

3. **CATEGORY 111 (\$100-\$500).** Violations involving program operating requirements such as failure to maintain required office hours or failure to maintain required records. The specific amount of the fine for each violation in each category will depend on whether

the same or similar violation has previously been cited in the past two years. Generally, the fine amount for an initial violation within a two-year period will be the bottom figure in the appropriate category, the fine amount for a second violation will be an amount that equals the middle of the appropriate category and the fine amount for a third or repeat violation will be the top figure in the appropriate category. In individual cases the fine amount may be adjusted upward or downward depending on the existence of mitigating or aggravating circumstances. In any case in which the department finds a violation of applicable law, rules or any other program requirement, the department has the discretion to determine the appropriate sanction, i.e. fine, suspension or revocation. No program has a right to an administrative fine in lieu of a suspension or revocation.

(d) **Effectuation of suspension of revocation.** If suspension or revocation of certification is imposed in accordance with the provisions of Sec. 50-13-18 of the Georgia Administrative Procedure Act, the program or instructor must return said certification to the department. The certification must be returned within ten days of the program's or instructor's receipt of the notification of the final imposition. The revocation or suspension becomes effective on the date indicated by the department's order, but no time will be credited to the period of suspension or revocation until the affected certificates) have been received by the department. Upon the termination of any period of suspension, and upon a showing that the program or instructor has achieved full compliance with program requirements in addition to meeting any reinstatement requirements, the department shall reissue the certification. However, nothing in these rules shall be construed to prevent the department from denying program or instructor certification prior to any hearing on such action.

Authority O.C.G.A. Secs. 40-5-83, 40-5-88, 50-13-18. **History.** Original Rule entitled "Rebates to the State of Georgia" adopted. F Jul. 19, 1990; eff. Aug. 8, 1990. **Amended:** F. Jun. 21, 1991; eff. Jul. 11, 1991. **Repealed:** New Rule entitled "Severability" adopted. F. Nov. 29, 1993; eff. Dec. 19, 1993. **Repealed:** New Rule entitled "Enforcement of Program Requirements" adopted. F Jul. 28, 1999; eff. Aug. 17, 1999.

290-4-10-.27 Applicability of Administrative Procedure Act. This Chapter and all actions resulting from its provisions shall be administered in accordance of Chapter 13 of Title 50 of the Official Code of Georgia, the "Georgia Administrative Procedure Act." The department shall notify the program or applicant of any intended enforcement action. Any such notice shall set forth the proposed action or actions and the factual and legal basis or bases therefor. A program or instructor desiring a hearing in response to an enforce-

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